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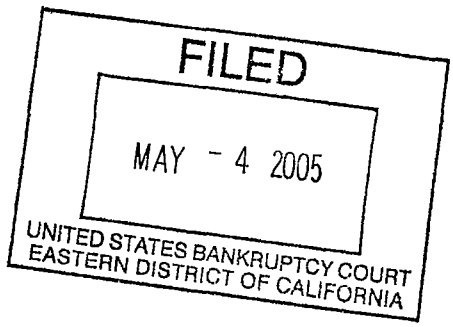

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

In re	Case No. 04-34414-C-7
MERLE D. TOLAND and TAMMY TOLAND,	DC No. DBJ-03
Debtors.	

FINDINGS OF FACT AND CONCLUSIONS OF LAW ON MOTION TO AVOID LIEN

These findings of fact and conclusions of law are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014. Evidence was taken pursuant to Federal Rule of Civil Procedure 43(e), as incorporated by Federal Rule of Bankruptcy Procedure 9017 and as invoked by Local Bankruptcy Rule 9014(e).

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(K).

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Findings of Fact

On April 4, 2005, debtors filed a motion, notice, and certificate of service requesting that this court avoid a judgment lien in favor of Bank of America, N.A. The lien attaches to the debtors' residence commonly known as 988 Bella Vista Avenue, Paradise, California, ("the property"). A hearing was scheduled for May 3, 2005 to consider the motion. Upon review of the record, the court determined that the written record was adequate and that no oral argument was necessary.

In reviewing debtors' certificate of service, the court observes that debtor served Bank of America, N.A. at the following two addresses: Eskanos & Adler, 2325 Clayton Road, Concord, CA 94520 and Bank of America, P.O. Box 53132, Phoenix, AZ 85072.

Conclusions of Law

Federal Rule of Bankruptcy Procedure 7004(b)(3) provides in pertinent part:

> Except as provided in subdivision(h), in addition-to the methods of service authorized by Rule 4(e)-(j) F.R.Civ.P., service may be made within the United States by first class postage prepaid as follows... Upon a domestic or foreign corporation or upon a partnership or other unincorporated association, by mailing a copy of the summons and complaint to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy of the defendant.

Fed. R. Bank. P. 7004(b)(3).

Here, debtors' service of motion does not comply with the requirement to serve the motion to the attention of an officer or other agent authorized as provided in Rule 7004(b)(3). Beneficial California, Inc. v. Villar (In re Villar), 317 B.R. 88, 93 (9th Cir. BAP 2004). The court notes that a corporation's agent for service of process may be obtained by visiting the California Secretary of State website at www.ss.ca.gov. The website contains a link to the "California Business Portal" which provides an online service titled "California Business Search." Therein, corporation information, including the agent for service of process, may be obtained by entering the corporation's name in the search engine.

The motion will therefore be denied without prejudice.

An appropriate order will issue.

Dated: May 3, 2005

UNITED STATES BANKRUPTCY JUDGE

CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

Merle D. Toland
988 Bella Vista Avenue
Paradise, CA 95969

Tammy Toland
988 Bella Vista Avenue
Paradise, CA 95969

Douglas Jacobs
20 Independence Circle
Chico, CA 95973

Michael Dacquisto
P.O. Box 992631
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Bank of America, N.A.
Eskanos & Adler
2325 Clayton Road
Concord, CA 94520

Bank of America
P.O. Box 53132
Phoenix, AZ 85072

Office of the United States Trustee
United States Courthouse
501 "I" Street, Suite 7-500
Sacramento, CA 95814

Dated: 5/5/05

Barbara Reynolds
Deputy Clerk

BARBARA REYNOLDS